

Sub  
H'  
con.  
cl  
cancelled

leukotriene antagonists, phospholipase-A2 (PLA2) inhibitors, platelet aggregating factor (PAF) antagonists, prophylactics of asthma, antiarrhythmic medicaments, tranquilisers, cardiac glycosides, hormones, anti-hypertensive medicaments, antidiabetic medicaments, antiparasitic medicaments, anticancer medicaments, sedatives, analgesic medicaments, antibiotics, antirheumatic medicaments, immunotherapeutic agents, antifungal medicaments, antihypotension medicaments, vaccines, antiviral medicaments, proteins, peptides, vitamins, cell surface receptor blockers, antioxidants, free radical scavengers, and organic salts of N,N'-diacetylcystine.--

--83. The method of claim 76, wherein the ratio of surfactant to medicament is in the range of 1:50 to 1:0.2.--

#### REMARKS

Claims 1-23, 25-31, 33, 34, and 37-45 have been cancelled and rewritten as new claims 46-83, with modifications. The new claims are substantially identical to the claims cancelled above, except that (1) the limitations to specific phospholipids recited in cancelled claims 9, 11, and 41 have been added to new independent claim 46 (formerly claim 1) and new independent claim 76 (formerly claim 37); (2) accordingly, claims 8-11 and 41 are not represented in new claims 46-83; and (3) the limitation that the ratio of surfactant to medicament is in the range of 1:50 to 1:0.2 is presented in dependent claims 73 and 83, instead of being present in independent claims 46 and 76.

In regard to (3), applicants note that this limitation was not present in original claims 1 and 37 as filed.

These amendments are being filed, in part, at the request of the Examiner to correct an apparent duplicate claim 33. Applicants also wish to bring the scope of the U.S. claims in line with the scope of claims for the same invention pending in other patent offices around the world. This is being accomplished by the above amendments. No new matter has been added.

In the Examiner's non-final office action dated September 25, 1998, the claims pending at that time were rejected under 35 U.S.C. § 102(b) as anticipated by Akehurst et al. (U.S. Patent No. 5,674,471). New independent claims 46 and 76 both recite an aerosol formulation containing a HFA propellant, a medicament, and a specific type of surfactant. The surfactant must be a C<sub>8</sub>-C<sub>16</sub> fatty acid or salt thereof, a bile salt, an alkyl saccharide, or a phospholipid that is lysophosphatidylcholine, lysophosphatidylglycerol, lysophosphatidylethanolamine, lysophosphatidylinositol, lysophosphatidylserine, diacylphosphatidylcholine, diacylphosphatidylglycerol, diacylphosphatidylethanolamine, diacylphosphatidylinositol, or diacylphosphatidylserine. Akehurst does not describe such an aerosol formulation and therefore does not anticipate claim 46 or 76. As claims 46 and 76 are patentable over Akehurst, so are all claims directly or indirectly dependent on claim 46 or 76.

Applicants submit that all of the claims are now in condition for allowance, which action is requested.

Please charge any fees, or make any credits, to Deposit  
Account No. 06-1050.

Respectfully submitted,

Date:

9-7-99

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110-2804

Telephone: 617/542-5070  
Facsimile: 617/542-8906

368979.B11

John T. Li  
John T. Li  
Reg. No. 44,210